

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 771 OF 2006.

IN

CRIMINAL APPEAL NO.666 OF 2006

Kamla Hasan @ Kamal Tewar
Gususingam Tewar. ... Applicant.
Versus.
State of Maharashtra. ... Respondent.

Shri Santosh Deshpande for the Applicant.

Shri S.R.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 16th November, 2006.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State. The conviction of the Applicant is for offences under section 399 read with section 34, section 402 read with section 34 of the Indian Penal Code, section 3 read with section 25 of the Indian Arms Act, and section 37(1) read with section 135 of the Bombay Police Act. All substantive sentences have been directed to run concurrently. The maximum substantive sentence is R.I. for five years. It is not in dispute that the Applicant is in Jail from 7th January 2003. Thus he is in custody for a period of three years and 10 months. Thus he has already undergone substantial part of the sentence. It is unlikely that the Appeal will be decided finally before the remaining period of sentence is over.

2. On earlier dates, this Application was adjourned to enable the learned A.P.P. to take instructions as regards the criminal antecedents of the Applicant. A chart was submitted on the earlier date by the concerned officer of the Shivaji Park Police Station which was found to be incorrect. Today the Police Inspector of the Shivaji Park Police Station has filed an affidavit in which he has tendered unconditional apology. The apology is accepted. Now he has placed a correct chart showing the pending cases against the Applicant. There are three cases pending against him in which he is on bail. Two cases have resulted in acquittal. One has resulted in conviction where the Applicant has been sentenced to suffer simple imprisonment for two months.

3. The learned A.P.P. submitted that even if Applicant is to be enlarged on bail, stringent conditions may be imposed considering the fact that the three cases are pending against the Applicant where offence alleged is under sections 392 read with section 34 of the Penal Code. Considering the facts and circumstances of the case, the Applicant deserves to be enlarged on bail by imposing stringent conditions.

4. Hence the Application is disposed of by the

following order:

- i) The Applicant (Kamla Hasan @ Kamal Tewar Gususingam Tewar) shall be enlarged on bail in the sum of Rs.10,000/- with one or two local sureties in the like amount.
- ii) The Applicant is granted bail subject to condition that he will report to the Shivaji Park Police Station, Mumbai on every Saturday till the disposal of the Appeal.
- iii) The bail is granted subject to further condition that the Applicant will not leave city of Mumbai without giving prior intimation to the concerned Officer of the Shivaji Park Police Station, Mumbai.

Judge.